

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

**RICHARD MONTANA and JOHN RAU,
on behalf of themselves and all others
similarly situated,**

Plaintiffs,

-vs-

Case No. 14-C-487

**JTK RESTORATIONS, LLC, and
JAMIE L. ULRICH,**

Defendants.

DECISION AND ORDER

The plaintiffs, Richard Montana and John Rau, move to conditionally certify this case as a class action under Section 216(b) of the Fair Labor Standards Act.

Under the FLSA, an action “may be maintained against any employer ... by any one or more employees for and on behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought.” 29 U.S.C. § 216(b). Courts allow notice to be sent if the plaintiff demonstrates “a reasonable basis for believing that she is similarly situated to potential class members.” *Austin v. CUNA Mut. Ins.*

Soc., 232 F.R.D. 601, 605 (W.D. Wis. 2006).

Plaintiffs seek certification of the following class: “All persons who are or have been employed by Defendants as a crew member who worked in excess of forty hours and who were not paid any overtime premium for this work at any time within three years prior to the filing of this action.” A crew member for purposes of the putative class is any individual who worked for Defendants and performed work such as cleaning, hauling garbage, painting, fixing windows and roofs, mowing lawns and other manual tasks, and light maintenance. The plaintiffs and the putative class members all engaged in similar non-exempt work, were wrongly classified as contractors and/or paid on a salary basis, and were not paid an overtime premium for any hours worked in excess of forty hours in a given workweek. This is enough to meet the plaintiffs’ initial burden for conditional class certification.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS
HEREBY ORDERED THAT** plaintiffs’ motion for conditional class certification [ECF No. 19] is **GRANTED**. The Collective Class is certified as follows: All persons who are or have been employed by Defendants as a crew member who worked in excess of forty hours and who were not paid any overtime premium for this work at any time within three years prior to

the filing of this action.

IT IS FURTHER ORDERED THAT (1) counsel of record is appointed as Collective Action Counsel; (2) the form and content of the Notice of Collective Action is approved; (3) the defendants must provide Collective Action Counsel with a list identifying all persons known to defendants to meet the above definition, including their name, street address, city, state, zip code, phone number, and the last four digits of their social security number; and (4) the Collective Action members are allowed ninety (90) days from the mailing of the Notice of Collective Action to opt into this action.

Dated at Milwaukee, Wisconsin, this 9th day of December, 2014.

BY THE COURT:



HON. RUDOLPH T. RANDA
U.S. District Judge